

INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
THE STATE OF ARIZONA  
AND  
APACHE COUNTY, ARIZONA

THIS AGREEMENT is entered into 24 April, 2000,  
pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the  
STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State")  
and APACHE COUNTY acting by and through its BOARD OF SUPERVISORS (the "County").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 and 28-6993(G) to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The County is empowered by Arizona Revised Statutes Section 11-251 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the County.

3. The State Transportation Board has approved the exchange of \$499,500.00 in Highway User Revenue Funds (HURF) during FY00 to the County for construction of improvements to the county road Concho - Snowflake Highway, and such funds will be repaid to the State by withholding from the Northern Arizona Council of Governments (NACOG) federal funds and the obligation authority for federal funds in the amount of \$639,687.00 during fiscal year 2000.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows

NO 23954  
Filed with the Secretary of State  
Date Filed: 04/24/00  
Retha Bayless  
Secretary of State

B. Dicky D. Greenwood

## II. SCOPE OF WORK

### 1 The County will:

a. Provide design plans, specifications and such other documents and services required for construction bidding and construction.

b. Call for bids and award one or more construction contracts for the project. Administer same and make all payments to the contractor(s). Be responsible for any additional funds required to complete the project, and for any contractor claims for extra compensation due to delays or whatever reason. Comply with all applicable State laws, rules and regulations.

c. Invoice the State for thirty percent of the project cost at the start of construction.

d. Invoice the State for thirty percent of the project cost at the thirty percent and sixty percent project completion stages.

e. After completion of the project, invoice the State for ten percent of the project cost.

f. Upon completion, approve and accept the project as complete and provide maintenance.

### 2. The State will:

a. Within 30 days after receipt and approval of an invoice, advance the County HURF funds in accordance with paragraph II.1.c., d. and f. above.

b. Withhold from NACOG, federal funds and the obligation authority of federal funds in the amount of \$639,687.00 during FY00.

## III. MISCELLANEOUS PROVISIONS

1. The State assumes no liability under this agreement. The County assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, cost over-runs and claims. It is agreed that the State's participation is confined solely to advancing highway user revenue funds; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the County and that the County hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the County, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation or attorneys' fees.

2. This agreement shall remain in force and effect until completion of said project; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, unless assumed by another governmental entity, may be cancelled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party.

3. This agreement shall become effective upon filing with the Secretary of State.

4 This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511

5 The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

6 In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

7 All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

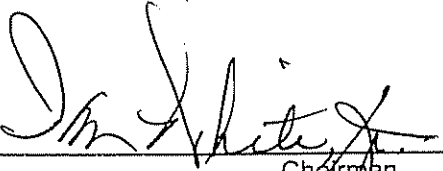
Arizona Department of Transportation  
Joint Project Administration  
205 South 17 Avenue, Mail Drop 616E  
Phoenix, AZ 85007

Apache County  
County Engineer  
PO Box 238  
St. Johns, AZ 85936

8. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

APACHE COUNTY, ARIZONA

By   
Chairman  
Board of Supervisors

ATTEST

By   
CLARENCE BIGELOW  
Clerk of the Board

STATE OF ARIZONA

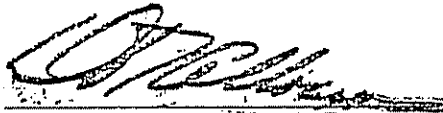
Department of Transportation

By   
MARY LYNN VISCHER, Director  
Transportation Planning

RESOLUTION

BE IT RESOLVED on this 28th day of February 2000, that I, the undersigned MARY E. PETERS, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with Apache County for the purpose of defining responsibilities for the exchange of HURF funds.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Director of Transportation Planning for approval and execution.

A handwritten signature in dark ink, appearing to read 'D. Allocco', is written over a horizontal line.

DAVID R. ALLOCCO, P.E.  
Assistant State Engineer  
Engineering Technical Group  
for Mary E. Peters, Director

TOM M. WHITE, JR.  
CHAIRMAN OF THE BOARD  
P.O. BOX 994 CANADO, AZ. 86505

JOE SHIRLEY, JR.  
MEMBER OF THE BOARD  
DISTRICT I  
P.O. BOX 1952 CHINLE, AZ. 86503

DAVID A. BROWN  
MEMBER OF THE BOARD  
DISTRICT III  
P.O. BOX 428 ST. JOHNS, AZ. 85936

BOARD OF SUPERVISORS  
OF APACHE COUNTY

P.O. BOX 428  
ST. JOHNS, ARIZONA 85936

TELEPHONE: (520) 337-4364  
FACSIMILE: (520) 337-2003



CLARENCE A. BIGELOW, MANAGER-CLERK  
ST. JOHNS, AZ. 85936

April 5, 2000

Mr. Jack Hammitt  
Arizona Department of Transportation  
205 South 17th Avenue, Mail Drop 616E  
Phoenix, Arizona 85007

Dear Mr. Hammitt:

"Mr. Wengert, County Engineer, presented the request for approval of an Intergovernmental Agreement with the Arizona Department of Transportation on the Concho/Snowflake Highway (Apache County Route 5020). After working several years on this project, signing the agreement will allow approximately \$500,000.00 to be available for the reconstruction.

Mr. Brown moved approval, seconded by Mr. Shirley. Vote unanimous."

I, Clarence A. Bigelow, Clerk of the Board of Supervisors do hereby certify that the above is a true and correct copy of a paragraph of the minutes of a meeting of the Apache County Board of Supervisors' held March 21, 2000.

IN WITNESS WHEREOF, I have affixed the official seal of Apache County at St. Johns, the County Seat, this 5th day of April, 2000.

*Clarence A. Bigelow*  
Clarence A. Bigelow  
Clerk/Manager

(SEAL)

APPROVAL OF THE APACHE COUNTY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, and APACHE COUNTY and declare this agreement to be in proper form and within the powers and authority granted to the County under the laws of the State of Arizona.

DATED this 21 day of March, 2000.

Russell H. Burch  
County Attorney      *Chaf Dpt*



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX, AZ 85007-2926

JANET NAPOLITANO  
ATTORNEY GENERAL

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FACSIMILE: (602) 542-4085

**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR00-0225TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED April 19, 2000.

JANET NAPOLITANO

Attorney General

JAMES R. REDPATH

Assistant Attorney General

Transportation Section

JRR:et/622488

Enc.